

BARBARA PAYNE

IBLA 83-556

Decided June 15, 1983

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application W 84199.

Affirmed.

1. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of pertinent statutes and regulations duly promulgated thereunder.

2. Oil and Gas Leases: Applications: Generally

A simultaneous oil and gas lease application is properly rejected where it is dated prior to the commencement of the filing period.

APPEARANCES: Lawrence Ellenbogen, Esq., Southfield, Michigan, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Barbara Payne appeals the Wyoming State Office, Bureau of Land Management (BLM), decision of March 23, 1983, which rejected her application, given first priority, for Parcel WY 264 in the January 1983 "Notice of Lands Available to Oil and Gas Leasing." The application was rejected because it bore the date "1-9-82" (January 9, 1982), contrary to regulation 43 CFR 3112.2-1(c) which states in material part: "The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period."

The notice of lands available to oil and gas leasing shows it was posted in the BLM office at 9:30 a.m., January 3, 1983. The listed parcels were subject to oil and gas lease applications from 9:30 a.m., January 3, 1983, until 4:30 p.m., January 21, 1983.

Appellant asserts that she complied with all instructions. She states that instructions for completing part B of the application require a personal

signature and dating within the filing period, but that the notice of availability containing a summary of the Federal Register notice of November 26, 1982, makes no mention of the date to be placed on the application. She asserts her application was properly completed as it did not hinder the automated processing, it bore a holographic signature and date, and it was timely filed. She contends she was not instructed that the date on the application had to be within the application period. She alleges the date on her check for filing fees was properly dated. Although appellant admits that the application was incorrect she argues that it is not an uncommon error to use the preceding year at the beginning of a new year. Appellant states that she cannot be fairly charged with breach of a regulation where she was never given notice of the regulation. She argues that her application was filed during the filing period so that the error in the date on her application did not prejudice any other applicants for the same parcel. She asserts the regulation requiring the application to be dated within the filing period is arbitrary and capricious.

[1] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Dee Wright, 69 IBLA 309 (1982); Samedan Oil Corp., 62 IBLA 228 (1982). 44 U.S.C. §§ 1507, 1510 (1976). Appellant is chargeable with knowledge of the regulation 43 CFR 3112.2-1(c), which requires that the simultaneous oil and gas lease application must be dated during the filing period. That requirement is also repeated in the instructions for completing part B of the application.

[2] A simultaneous oil and gas lease application is properly rejected where it is dated prior to the commencement of the filing period. H. W. Roberts, 69 IBLA 76 (1982); Raymond N. Joeckel, 68 IBLA 195 (1982); Charles Y. Neff, 64 IBLA 234 (1982), aff'd, Neff v. Watt, No. C82-0337-B (D. Wyo. Jan. 21, 1983); Leonard Thompson, 62 IBLA 236 (1982).

As the application of appellant shows a date of "1-9-82," BLM properly rejected the application filed during the January 1983 filing period.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

R. W. Mullen
Administrative Judge

Bruce R. Harris
Administrative Judge

